



**CITY OF MESA, ARIZONA**

**ARIZONA MUSEUM OF NATURAL  
HISTORY - DINOSAUR FAÇADE**

**ARTISTIC SERVICES**

**PROJECT NO.CP0783**



CITY OF MESA, ARIZONA  
ENGINEERING DEPARTMENT

## **ARTISTIC SERVICES CONTRACT (ARTISTIC TEAM)**

### **ARIZONA MUSEUM OF NATURAL HISTORY – DINOSAUR FAÇADE**

**THIS CONTRACT** is made and entered into on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between City of Mesa, an Arizona municipal corporation, hereinafter called ("City") and the Artistic Team (consisting of an Artist, design professionals/subconsultants, such as a structural engineer, an architect and/or qualified design professionals as required) "Artistic Team" designated below:

City and Artistic Team agree as follows:

#### **ARTICLE 1 – PARTICIPANTS AND PROJECT**

**CITY:**

**City of Mesa**  
**Project Manager: Jennifer Donahue**  
**Telephone: 480-644-5670**  
**E-mail: Jennifer.Donahue@mesaaz.gov**

**ARTISTIC TEAM LEAD: (Name)**  
**(Address)**  
**Artistic Team Representative:**  
**Telephone:**  
**Fax:**  
**E-mail:**

#### **ARTICLES**

1. **Project:** The City agrees to engage an Artistic Team to perform the professional design/artistic services ("Work") set forth on Exhibit A hereto ("Scope of Work") for the project known and described as Arizona Museum of Natural History – Dinosaur Façade, Project No. CP0783, hereinafter called the "Project," on the following terms. Agreement to the terms set forth herein is a material and necessary precondition and inducement to the City entering this Contract with Artistic Team. The City Project Manager designated by the City for this Project is: Jennifer Donahue ("City Project Manager").
2. **General Conditions and Specifications:** The City has adopted standard General Conditions which apply to all construction projects and construction contracts entered by the City ("General Conditions"). The City has also adopted and operates under the Standard Specifications and Details set forth in Section 3 of the General Conditions ("Standard Specifications"). Artistic Team must be aware of, abide by, and incorporate the General Conditions and Project Specific Provisions as they apply to the Project into Artistic Team's performance of the Work and all specifications, details, drawings, and or other documents generated under this Contract. Unless otherwise provided herein, the definitions in the General Conditions shall apply to this Contract and all documents related to this Contract. Any questions concerning the applicability of any specific provisions of the General Conditions or Specification to the Project or the Work shall be directed in writing to the City Engineer. The General Conditions and the Project Specific Provisions are available on the Internet at:  
<http://mesaaz.gov/business/engineering/engineering-contracts>



3. **Scope of Work:** The Work includes all services reasonably contemplated, normally included, and necessary to complete the Scope of Work in a professional manner with due diligence and in a timely manner. Artistic Team shall perform the Work required by, and as outlined in Exhibit A to the satisfaction of the City's Project Manager, exercising the degree of care, skill, diligence and judgment an artistic team experienced in the performance of such Work for design, construction/installation, of similar scope, function, size, quality, complexity and detail to the Project in urban areas in the State of Arizona, would exercise at such time, under similar conditions. Artistic Team shall, at all times, perform the required Work consistent with generally accepted engineering principles and design practices. Artistic Team shall:

For submittal guidelines, Artistic Team shall categorize scope as outlined in City of Mesa Engineering Department Submittal Guidelines available on the internet at <http://mesaaz.gov/business/engineering/submittal-process-guidelines>.

- a. Prepare \_\_\_\_\_ "Scope" \_\_\_\_\_ as more specifically described in Exhibit A.
- b. Follow and comply with the Arizona [Utility Coordinating Committee \("AUCC"\) Public Improvement Project Guide](#) as directed by the City. N/A
- c. If requested by the City, attend Project Team meetings, Project Management meetings, Project workshops, special Project meetings, construction document rolling reviews, public meetings and partnering sessions. The Artistic Team attendance at design or other meetings in which Artistic Team is provided the opportunity, but does not actively participate and/or is not properly prepared, is not acceptable. Repeated instances of non-participation and/or lack of preparedness shall be grounds for termination of this Contract for default. Artistic Team when requested by City, shall attend, make presentations and participate as may be appropriate in public agency and or community meetings relevant to the Project. Artistic Team shall provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or appropriate in any such public agency meetings.
- d. If requested by the City, prepare and submit a detailed estimate of the total cost of the Project through completion in such detail and format as required by the City.
- e. If the Work includes construction phase services, provide at no additional cost to the City, such Work, including without limitation inspections, attending meetings, responses to request for information, review of submittals, generation of punch lists, and clarification of drawings, designs, and/or specifications as may be necessary to complete the Project, and/or as may be reasonably requested by the City. All fabrication/installation phase Work provided by Artistic Team shall comply and be consistent with the requirements of the General Conditions.
- f. If requested by the City, provide the City with "Record" drawings at the completion of the Project, in such form and detail as the City may require.



4. **Design within Funding Limitations:** Artistic Team shall accomplish the Work so that the Construction/Installation Contract for the Project may be bid and awarded by the City at a total Contract Price that does not exceed the Estimated Contract Price plus ten percent (10%), as set forth below:
  - a. The Estimated Contract Price for the Project is \$200,000.00.
  - b. If the lowest responsive and responsible bid or proposal Contract Price exceeds the Estimated Contract Price, Artistic Team shall perform such redesign and other Work as is necessary to permit the rebidding and award of the Installation Contract for the Project within the Estimated Contract Price (collectively the "Redesign Work"). The Redesign Work shall be performed at no additional cost to the City, unless City and Artistic Team agree that the cause of the Estimated Contract Price being exceeded are beyond the reasonable control of Artistic Team and could not have been anticipated by Artistic Team (such as unanticipated material changes in the scope of the Project by the City; unknown, unusual and not reasonably anticipated material existing conditions; or significant and unforeseen increases in fabrication/installation and/or material costs.
  - c. Artistic Team shall promptly (and in no event later than finalization and publication of the request for bids, request for proposals, or request for statements of qualifications, for the installation of the Project) advise the City Project Manager in writing as soon as Artistic Team believes, or should realize that the design for the Project will likely cause the Estimated Contract Price to be exceeded. Failure to give timely notice pursuant to this subsection will constitute a waiver of Artistic Team's right to assert a claim for additional compensation for any Redesign Work.
5. **Time:** Time is of the essence for this Contract. Artistic Team shall complete all Work within **300 Calendar Days** from Contract execution. If a further or more detailed schedule is set forth in Exhibit A, Artistic Team shall strictly comply with said schedule and failure to do so, without the prior written Contract of the City, shall be a material breach of this Contract. Artistic Team shall promptly respond (and in no event more than ten (10) calendar days after receiving the request) to any requests for approvals, information or clarification within sufficient time to allow the City to timely respond to the contractor(s) or other parties involved in the Project, so as to not delay the Project.
6. **Additional Work:** Payment for additional work shall be made only if such additional work is expressly approved, in writing, by the City prior to the additional work being performed. The City shall issue a Contract Modification for any approved additional work. The City shall not pay for any costs not expressly designated as reimbursable in this Contract or the written approval for the additional work.
7. **Corrections:** Artistic Team shall promptly provide, at no additional cost to the City, any and all corrections, modifications, additional documents, or other items that may be necessary to correct any errors and/or omissions in the documents, designs, specifications, and/or drawings, provided by Artistic Team.
8. **Quality/Special Features:** Artistic team is responsible, to the extent necessary to perform the Work, at no additional charge to the City, to fully familiarize itself with the special and/or unique qualities and/or requirements of the Work, the Project, the Project site, and the City. Notwithstanding the foregoing, Artistic Team shall not be required to undertake or perform a geotechnical investigation, materials sampling or testing, construction cost estimating, or other special investigation of existing conditions unless the same is included in the Scope of Work. The City's determination as to the level of quality required and on all aesthetic issues shall be final and binding.



9. **Coordination:** Artistic Team shall be responsible for coordinating the Work, and all designs, drawings, and/or specifications developed in relation thereto, with the City Engineering Department and other departments within the City, design professionals, and other contractors involved in the Project, as well as the other designs, drawings, and/or specifications for the Project. Artistic Team shall also cooperate with the City in communicating with, obtaining necessary approvals or permits from, and responding to, any applicable government entity, regulatory agency, or private Utility Company, including participation in any hearings or meetings.
10. **Key Personnel:** Artistic Team shall utilize the key personnel listed in Artistic Team's proposal to the City. Artistic Team shall not change key personnel, not utilize the listed key personnel, or utilize any other key personnel without the prior written approval of the City Project Manager. Any substituted personnel shall have the same or higher qualifications as the personnel being replaced.
11. **Fee and Reimbursable Expenses:** The method of payment for this Contract is Hourly, Not-to Exceed. The amount paid shall not exceed \$\_\_\_\_\_ for actual costs incurred, based on the negotiated hourly rates and reimbursement schedule as defined in Exhibit A, Scope of Work.
- a. **Fee:** The City shall pay Artistic Team a fee, not-to-exceed \$\_\_\_\_\_ for actual costs incurred, in installments based upon monthly progress reports per Project Development Guidelines Section VI, Sub-Section B – ArtisticTeam Responsibilities (4b), and detailed invoices submitted by Artistic Team in such form as approved by the City, subject to the following limitations:
1. Monthly progress reports shall include a summary of costs billed by labor category and tasks and shall be formatted to permit comparison of actual-to-proposed costs and a breakdown of costs incurred by each subconsultant.
  2. Prior to approval of the preliminary documents (30% plans), the billed amount shall not exceed 40% of the total Contract Amount.
  3. Prior to approval of the final design documents deliverable under the Work, the billed amount shall not exceed 90% of the total Contract Amount.
  4. If the Work includes the preparation of studies, design concepts, or other investigations, progress payments shall not exceed 90% of the total Contract Amount prior to submittal of the final report deliverables.
  5. Additional work included in the Work, such as bidding assistance, shop drawing review, contract documents interpretation, etc., shall be paid for based on the actual completed Work.
- b. **Reimbursable Expenses:** No reimbursable expenses or costs of any kind shall be paid by the City unless expressly approved by the City in writing before they are incurred. Any approved reimbursable expenses will be paid at the actual cost without any markup.
12. **Payment:** Subject to the limitations set forth in Article 11 above, the City shall make payments within thirty (30) days of approval by the City of ArtisticTeam's invoice submittals. If a dispute over payment arises, and during all claims resolution proceedings, including mediation and arbitration, Artistic Team shall continue to render the Work in a timely manner. Payment by the City does not constitute acceptance by the City of the Work or Artistic Team's performance, nor does payment constitute a waiver of any rights or claims by the City.
13. **Payment Documentation:** As a necessary precondition to any payment under this Contract, the City may require Artistic Team to provide such certifications; lien waivers (in statutory form); and



proofs of performance, costs, and/or percentage of completion as may be reasonably required by the City, to ensure that payment is then due and owing pursuant to the payment terms set forth in this Contract and as referenced in Article 3, Scope of Work.

14. **Taxes:** Artistic Team shall be solely responsible for any and all tax obligations which may result out of the Artistic Team's performance of this Contract. The City shall have no obligation to pay any amounts for taxes, of any type, incurred by the Artistic Team.
15. **Information Provided by the City:** The City shall provide to Artistic Team information regarding requirements for the Project including relevant budget information, project schedules, identities of Project participants, and related designs, drawings, and specifications. Artistic Team shall be entitled to rely on such information furnished by the City, provided that Artistic Team shall promptly notify the City, in writing, of any information that Artistic Team believes is missing, unclear or insufficient for the successful completion of the Project and the Work.
16. **Use of Documents:** Upon execution of this Contract, the Artistic Team and all sub-consultants working under or for Artistic Team, hereby grant to the City an irrevocable, exclusive, royalty-free perpetual license to reproduce and use any and all data, documents (including electronic documents and files), designs, drawings and specifications prepared or furnished by Artistic Team pursuant to this Contract, for the purposes of construction and completing the Project, including for the use, sales, marketing, repair, maintenance, modification, expansion, remodeling and/or further development of the Project or any portion thereof (including making derivative works from Artistic Team's Work), or for construction of the same type of Project at other locations, by the City and others retained by the City for such purposes. This license shall extend to those parties retained by the City for such purposes, including other design professionals. The license granted hereunder shall include all things included in the definition of "Architectural Works" as used in the U.S. Architectural Works Copyright Protection Act, as amended from time to time. The Artistic Team shall obtain, in writing, similar non-exclusive licenses from its design professionals, and sub-consultants. The license granted hereunder shall survive any termination of the Contract and the completion of the Project. Upon completion of the Project and/or termination of the Contract for any reason, Artistic Team shall deliver to the City full sized and usable copies (including any and all CAD, BIM, and/or computer files) of all data documents, designs, drawings and specifications generated by Artistic Team, including those generated by any suppliers, subcontractors or sub-consultants. The City shall retain all rights and ownership of all documents, designs, drawings, specifications, and/or styles provided to Artistic Team by the City in relation to this Contract and the Project, and Artistic Team shall not utilize any such material in relation to any other work or project.
17. **Insurance:** Artistic Team shall provide insurance as set forth on Exhibit B hereto.
18. **Termination:**
  - a. **Termination by the Artistic Team:** If the City fails to make payment of undisputed amounts due following fourteen (14) days' written notice to the City, the Artistic Team may terminate this Contract and recover from the City payment for Work actually executed and approved and accepted by the City. Under no circumstances shall City have any liability for any costs, expenses, overhead, or profits in relation to any work not actually performed, or for any future or anticipated profits, recovery, damages, expenses, or losses.
  - b. **Termination by the City:** The City may terminate this Contract if the Artistic Team substantially breaches any obligation under this Contract, or any other Contract between the City and Artistic Team, following seven (7) days' written notice to Artistic Team. The City may also recover the damages suffered by the City, as a result of the breaches and/or



as a result of the termination. The City may also terminate this Contract at any time for its convenience by written notice to Artistic Team specifying the termination date.

- c. **Payment Upon Termination:** In the event of termination, the City shall pay to Artistic Team only such compensation, including reimbursable expenses, due for Work properly performed on the Project prior to the termination date, minus any offsets due the City for any reason. Upon any termination of this Contract no further payments shall be due from the City to Artistic Team unless and until Artistic Team has delivered to the City full sized and usable copies (including any and all CAD, BIM, and/or computer files) of all documents, designs, drawings, and specifications generated by Artistic Team in relation to the Project.
19. **Subcontractors:** During performance of this Contract, the Artistic Team may engage additional subcontractors or subconsultants (collectively "subcontractors") as may be required for the timely completion of the Work. The addition of any subcontractors shall be subject to prior written approval by the City. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Contract rests with the Artistic Team.
20. **Indemnification:** The Artistic Team shall have and assume the indemnity obligations set forth in Section 12 of the General Conditions.
21. **Dispute Resolution:** All disputes and claims shall be resolved as set forth in Appendix 7 of the General Conditions.
22. **Compliance with Federal and State Laws:** In performance of the Work under this Contract, Artistic Team shall fully comply with all applicable Laws, Regulations, or Legal Requirements (as defined in the § 2 of the General Conditions) applicable to Artistic Team's Work.
23. **Miscellaneous Provisions:** The Miscellaneous Provisions in Section 14 of the General Conditions shall apply to this Contract, with the term "Artistic Team" replacing "Contractor."
24. **Complete Contract:** This Contract and the Exhibits hereto, together with designs, drawings, and specifications relating to the Work, represent the complete and integrated Contract between the City and Artistic Team, and supersede all prior negotiations, representations or Contracts, either written or oral. This Contract may be amended only by written instrument signed by both the City and Artistic Team.
25. **Protest Policy:** Refer to City of Mesa Protest Policy: Procurement Rules at <http://mesaaz.gov/home/showdocument?id=8712>, Article 6. Protests, Appeals, Debarments, Confidential Information, and Contract Disputes.
26. **Ownership of Work:** Title of the Work passes to the City upon City's written final acceptance of the complete work. All reports, drawings, plans, specifications and other materials prepared, or in the process of being prepared for the Work to be provided by Artistic Team shall be transfer to the City.
27. **Proprietary Rights and Rights of Reproduction:** The City retains (1) all rights to the Work as the scope of work requires Artistic Team to directly replicate the model as depicted. The City expressly reserves the right to control the making and dissemination of copies or reproduction of the Work, except as indicated in this Contract. The Artistic Team shall not make any exact duplications of the Work.
28. **Representations and Warranties:** For one year from the date of final acceptance by City, the Artistic Team shall be responsible for and shall warrant the Work against all defects, workmanship, materials, fabrication techniques, installation and function. The Artistic Team's

**26. Exhibits:**

- IN WITNESS WHEREOF, the parties hereto have executed this Contract through their duly authorized representatives and bind their respective entities as of the effective date.

**ATTEST:**

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**EXHIBIT A – SCOPE OF WORK**

**(\_\_ PAGES, INCLUDING THIS PAGE)**

All terms and conditions are set forth in the Contract. Any terms and conditions and/or exceptions noted in the Artistic Team's proposal, GMP, or other documents do not apply unless agreed to in this Contract or an approved addendum.

SAMPLE



## **EXHIBIT B – INSURANCE REQUIREMENTS**

**(5 PAGES, INCLUDING THIS PAGE)**

### **MINIMUM INSURANCE REQUIREMENTS**

Artistic Team shall obtain and submit to City before any Work is performed, certificates from the Artistic Team's insurance carriers indicating the presence of coverages and limits of liability as set forth in the Contract Documents, but in no event shall the coverages and limits be less than those specified as follows.

The City only accepts the most recent ACORD® Certificate of Liability Insurance form with additional insured endorsements. The course of construction policy (if required) and the owner's liability policy shall remain in effect during construction through the date of project final acceptance. The remainder of the insurance policies shall remain in effect during construction and through the one-year warranty period that follows project final acceptance, unless otherwise specified in Contract documents. Proof of all required coverage(s) shall be provided by the Artistic Team.

**1. Workers' Compensation:**

Coverage A. Statutory Benefits

Coverage B. Employer's Liability

Bodily Injury by accident

\$1,000,000 each accident

Bodily Injury by disease

\$1,000,000 policy limit

Bodily Injury by disease

\$1,000,000 each employee

Coverage must include a Waiver of Subrogation endorsement.

Where applicable, U.S. Longshore and Harbor Workers Compensation Act Endorsement shall be attached to the policy.

**2. Commercial Auto Coverage:**

Auto Liability limits of not less than \$1,000,000 Combined Single Limit (Each Accident), combined Bodily Injury and Property Damage Liability insurance. Certificate to reflect coverage for "Any Auto, All Owned, Scheduled, Hired, or Non-Owned."

If the Contract Documents require Artistic Team to remove and haul hazardous waste from the Project site, or if the Project involves such similar environmental exposure, pollution liability coverage equivalent to that provided under the ISO Pollution Liability-Broadened Coverage for Covered Autos Endorsement shall be provided, and the Motor Carrier Act Endorsement (MCS 90) shall be attached.

**3. Commercial General Liability:**

Each Occurrence Limit

\$1,000,000

Personal Injury/Advertising Injury Limit

\$1,000,000

Products/Completed Operations Aggregate Limit

\$1,000,000

General Aggregate Limit

\$2,000,000

(other than Products/Completed Operations)

Coverage must include a Waiver of Subrogation endorsement.



Both policy forms must include:

- 1) Premises and Operations coverage with no explosion, collapse or underground damage (XCU) exclusions.
- 2) Products and Completed Operations coverage. Artistic Team agrees to maintain this coverage for a minimum of 10 years following completion of the Artistic Team's Work and to continue to name City as an Additional Insured for the entire 10-year period.
- 3) Blanket contractual coverage for the indemnity/hold harmless agreements assumed in this Subcontract and in the Prime Contract. Any Employee Exclusion will be deleted.
- 4) Broad Form Property Damage coverage, including completed operations or its equivalent.
- 5) An endorsement naming City, any other party required to be named as an additional insured under the Contract Documents, and any other parties in interest as Additional Insured(s) under the coverage specified under Comprehensive General Liability or Commercial General Liability. The endorsement shall be on ISO forms CG2010B 11/85 or CG2026 11/85, or equivalent. Additional Insured Endorsements on both ISO forms CG2010 10/01 and CG2037 10/01 are acceptable. ISO forms CG2010A or CG2010B 10/93 and/or 3/97, or their equivalent, ARE NOT ACCEPTABLE. Any form that does not grant additional insured status for both the ongoing operations and products/completed operations coverages IS NOT ACCEPTABLE.
- 6) An endorsement stating: "Such coverage as is afforded by this policy for the benefit of the additional insured(s) is primary and except for any builder's risk property insurance coverage that may be purchased and maintained by City in connection with the Project, any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under this policy."
- 7) Coverage on an "Occurrence" form. **"Claims Made"** and **"Modified Occurrence"** forms are not acceptable.
- 8) Coverage to include general aggregate limits on a "per project" basis.

**4. Excess Liability:**

Umbrella or Excess Liability may be used to satisfy the above Auto and General Liability coverage requirements and limits to reach a total combined limit of:

Auto	Amount sufficient to cover difference in limits when compared to minimum coverage required.
Each Occurrence	Amount sufficient to cover difference in limits when compared to minimum coverage required.
Aggregate	Amount sufficient to cover difference in limits when compared to minimum coverage required.

Coverage must include an endorsement naming City of Mesa, its elected officials, and employees as Additional Insureds under the Contract Documents.



**5. Errors & Omissions/Professional Liability:**

(Applicable only to professional services which are part of Work.)

Coverage provided must have no exclusion for design-build projects. Artistic Team must provide evidence of coverage for three (3) years beyond completion of the Project.

Coverage Amount: \$1,000,000 per claim/\$2,000,000 aggregate, unless higher coverage limits are required under the Contract Documents, in which case such higher limits shall apply.

**6. Pollution Legal Liability: (Construction contractors only)**

\$1,000,000 per Occurrence  
\$1,000,000 Aggregate Limit

(Applicable to any pollutants or hazardous waste exposures as part of Work, except for CM@Risk Pre-Construction services work.)

Contractor shall maintain insurance covering losses caused by pollution conditions (including mold) that arise from the Work.

**7. Waivers of Subrogation:**

The policies shall provide waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**8. Other Requirements:**

- A. Artistic Team and/or Artistic Team's insurance broker must provide timely written notice of cancellation to the additional insured(s) in the event of cancellation, non-renewal or material reduction in coverage.
- B. All policies must be written by insurance companies whose rating, in the most recent Best's Rating Guide, is not less than A-. All coverage forms must be acceptable to City.
- C. ACORD® Certificate of Liability Insurance form with the required endorsements evidencing the required coverages must be delivered to the City prior to commencement of any Work. Failure of City to demand such certificate or other evidence of full compliance with these insurance requirements or failure of City to identify a deficiency from evidence that is provided shall not be construed as a waiver of Artistic Team's obligation to maintain such insurance. City shall have the right, but not the obligation, to prohibit Artistic Team or any of its subcontractors from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by City.
- D. Artistic Team shall be responsible for satisfying any deductible or self-insured retention with respect to any of the coverages required by the Contract Documents to be provided by Artistic Team.



- E. City reserves the right, in its sole discretion, to require higher limits of liability coverage if, in City's opinion, operations by or on behalf of Artistic Team create higher than normal hazards and, to require Artistic Team to name additional parties in interest to be Additional Insureds; provided however, City is responsible for paying all actual additional costs associated with such higher limits, if any.
- F. In the event that rental of equipment is undertaken by Artistic Team or any Subcontractor to complete and/or perform the Work, Artistic Team agrees that it shall be solely responsible for such rental equipment. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
- G. In the event that materials or any other type of personal property ("personal property") is acquired for the Project or delivered to the Project site, Artistic Team agrees that it shall be solely responsible for such property until it becomes a fixture on the Project, or otherwise is installed and incorporated as a final part of the Project. Such responsibility shall include, but not be limited to, theft, fire, vandalism and use by unauthorized persons.
- H. Artistic Team shall maintain "all risk" insurance, on a replacement cost basis, covering loss or damage to personal property (for which it has title and/or risk of loss) which is to become a final part of the Project, during any time such personal property is in transit and while stored or worked upon away from the Project site. City shall be named as additional insured under such insurance.
- I. City and Artistic Team waive all rights against each other and the subcontractors, subconsultants and employees of any of them, for damages caused by fire or other perils covered by Builder's Risk or any other property insurance applicable to the Project, except such rights as they may have to the proceeds of such insurance.
- J. Builders Risk/Course of Construction – (Construction Contractors Only)  
Contractor shall include in its Cost Proposal the cost to obtain builders risk or "all risk" or equivalent policy form coverage in the amount of the initial Contract Price. This required insurance coverage is required on projects that are typically outside the public rights-of-way whereby the City is constructing or modifying a public building. The City may, at the City's sole option, purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builders risk "all-risk" or equivalent policy form in the amount of the initial Contract Price, plus value of subsequent contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. This insurance shall include interests of the City, Contractor and its subcontractors in the Project, and shall include, without limitation, insurance against the perils of fire and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal, including demolition occasioned by enforcement of any applicable legal requirements. City shall bear the responsibility for the deductible for such coverage when a loss affects the Work, provided, however, to the extent such loss is attributable to the negligent or wrongful acts or omissions of Contractor or someone for whom Contractor is responsible, Contractor shall bear the responsibility of the deductible. Such property insurance will not cover any tools or equipment owned or rented by Contractor that will not be incorporated into the Project, including trailers, excavators, scaffoldings, or forms. Contractor is responsible for providing insurance coverage for such items.



- K. If City elects to utilize an Owner Controlled Insurance Program ("OCIP") which provides coverage for the Work, the Artistic Team shall comply with all provisions of any such OCIP.
- L. Artistic Team shall also deliver to City, and City must accept, the Certificates of Insurance required herein prior to commencing any Work.
- M. Any additional provisions specific to the Project are attached. In the event of any conflict between the attached terms and the terms of this Exhibit, Artistic Team shall comply with the more stringent provisions.

**9. Valuable Papers:**

Valuable Papers insurance sufficient to assure the restoration of any documents, memoranda, reports, or other similar data relating to the Work of the Artistic Team used in completion of this contract.

(Applicable to any artistic services which are part of Work.)

**10. Owner's Liability: (Construction Contractors Only)**

Owner's Liability Policy: Prior to the execution of the Contract the Contractor shall provide a separate policy of insurance in the amount of \$2,000,000, per occurrence, at its sole cost and expense, naming the City of Mesa, a Municipal Corporation and all its agents, representatives, officers, directors, officials and employees as the insured. The Policy shall be primary and not contributory to any insurance maintained by the City of Mesa and shall remain in effect through date of final acceptance.

If a policy does expire prior to final acceptance, a renewal certificate of the required coverage shall be sent to the City of Mesa not less than five (5) days prior to the expiration date or, if a policy is to be cancelled, changed or not renewed, a proper notice of such action shall be sent to the City not less than ten (10) days prior to any such action by the insurance company.

Notice shall be sent to: City Engineer                      or  
City of Mesa  
P.O. Box 1466  
Mesa, AZ 85211-1466

Fax to 480-644-3392  
Attention: City Engineer